



BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE :
APPLICATION NO. a-7008 :
(55 Area) FILED IN THE NAME :
OF ROCK CANYON WATER COMPANY :
TO CHANGE THE POINT OF :
DIVERSION, PLACE AND NATURE :
OF USE OF WATERS FROM ROCK :
CANYON :

PETITION FOR RECONSIDERATION
OF MEMORANDUM DECISION
DATED NOVEMBER 12, 1973

Provo River Water Users Association, Central Utah Water Conservancy District and Kennecott Copper Corporation, protestants under the above numbered Change Application, hereby petition the State Engineer of the State of Utah for reconsideration of paragraph 1(3) of the conditions of approval of his Memorandum Decision dated November 12, 1973, upon the following grounds:

1. Paragraph 1(3) purports to authorize the diversion of the total flow of Rock Canyon Creek and the designated springs into the Provo City municipal water system, and by reason thereof

(a) constitutes an enlargement of the claimed right which is, and always has been limited to the quantity of water diverted and beneficially used by applicant from Rock Canyon Creek and designated springs therein;

(b) is contrary to and wholly inconsistent with paragraph 1 of said Memorandum Decision, which limits the total quantity of water diverted under Change Application No. a-7008 (55 Area) to 1533.28 acre feet as divided into the respective quantities and during the respective periods set forth in paragraphs 1(1) and 1(2) thereof; and

(c) indirectly amends the Decision of the State Engineer dated January 21, 1972 in approving Change Application

No. a-6280 (55 Area) for the total quantity of water diverted thereunder to 784 acre feet, which Decision became final and binding upon applicant sixty days thereafter since no action was filed by applicant to review the same pursuant to Sections 73-3-14 and 73-3-15, U.C.A. 1953.

2. Paragraph 1(3) purports to authorize applicant to divert water in excess of the total 2317.28 acre feet authorized to be diverted under Change Application No. a-7250 and a-7008 (both 55 Area) and to replace such excess quantities into Utah Lake with Provo City's effluent water, and by reason thereof

(a) constitutes an enlargement of the claimed right which is, and always has been limited to the quantities of water diverted and beneficially used from Rock Canyon Creek and the designated springs therein;

(b) the vested water rights on the Provo River, and particularly those in the lower reaches thereof, will be deprived of waters necessary to satisfy those vested rights;

(c) it will be impossible to measure, determine, administer or distribute such excess quantities of effluent waters, which will have been commingled within Provo City's municipal water system with waters diverted from the various different sources, and accordingly it will be impossible to determine whether applicant has complied with such condition of approval; and

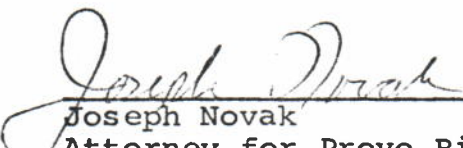
(d) a precedent would be established thereby throughout the State of Utah to permit any municipality to divert into its municipal water system the total flow of any applicable source without regard to the quantities of water appropriated so long as the effluent waters returned to the natural channel equal such excess quantities so diverted, which precedent is contrary to the established law of this State and would be

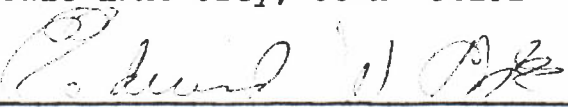
detrimental to the public welfare and to all vested water rights within the State of Utah.

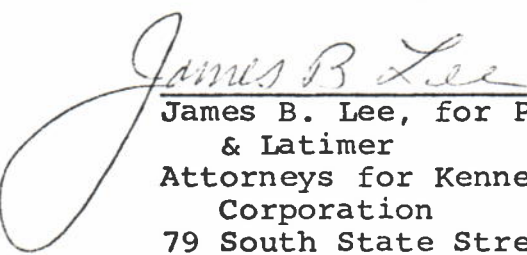
3. Paragraph 1(3) constitutes a wrongful invasion and impairment of the vested water rights of the protestants and is without authority and contrary to law.

WHEREFORE, protestants pray that the State Engineer reconsider paragraph 1(3) of his Memorandum Decision dated November 12, 1973 and set the matters raised above for rehearing upon reasonable notice, and thereupon amend the same to limit the diversions therefrom to 2317.28 acre feet and require that the return flows therefrom must be permitted to return to Utah Lake and/or Provo River in accordance with past practices.

Dated this 12 day of December, 1973.


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